



# California Regional Water Quality Control Board Central Valley Region

Karl E. Longley, ScD, P.E., Chair

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Arnold  
Schwarzenegger  
Governor

Linda S. Adams  
Secretary for  
Environmental Protection

23 March 2009

Eddie Duane Smith, Trustee  
Eddie Duane Smith Trust, and  
Successor Trustee, Mildred R. Smith Trust  
3772 Minniear Avenue  
Modesto, California 95357

## **ADMINISTRATIVE CIVIL LIABILITY COMPLAINT R5-2009-0512, ASSESSMENT OF PENALTIES FOR CONTINUING VIOLATIONS OF CLEANUP AND ABATEMENT ORDER R5-2007-0726, MADERA TRANSPORTATION, 305 NORTH E STREET, MADERA, MADERA COUNTY**

Enclosed is an Administrative Civil Liability Complaint (Complaint), issued pursuant to California Water Code (CWC) section 13350, for violations of Cleanup and Abatement Order R5-2007-0726 by the Eddie Duane Smith Trust (hereafter "Discharger"). The Complaint charges the Discharger with administrative civil liability in the amount of **one hundred twenty-six thousand five hundred dollars (\$126,500)**, a figure arrived at by the California Regional Water Quality Control Board, Central Valley Region (Central Valley Water Board or Board) after a full consideration of the factors set forth in CWC section 13327.

Pursuant to CWC section 13323, the Discharger may:

- Pay the assessed civil liability and waive its right to a hearing before the Central Valley Water Board by signing the enclosed waiver (checking off the box next to item #4) and submitting it to this office by **5 p.m. on 22 April 2009**, along with payment for the full amount;
- Agree to enter into settlement discussions with the Central Valley Water Board and request that any hearing on the matter be delayed by signing the enclosed waiver (checking off the box next to item #5) and submitting both the waiver and a letter describing the issues to be discussed to this office by **5 p.m. on 22 April 2009**; or
- Contest the Complaint and/or enter into settlement discussions with the Central Valley Water Board without signing the enclosed waiver.

If the Discharger chooses to sign the waiver and pay the assessed civil liability, this will be considered a tentative settlement of the violations in the Complaint. This settlement will be considered final pending a 30-day period, starting from the date of this Complaint, during which time interested parties may comment on this proposed settlement by submitting information to this office, attention Jeff Hannel. Should the Central Valley Water Board receive new information or comments during this comment period, the Central Valley Water Board's Executive Officer may withdraw the complaint, return payment, and issue a new complaint.

*California Environmental Protection Agency*

If the Central Valley Water Board does not hold a hearing on the matter, and if the terms of the final settlement are not significantly different from those proposed in the enclosed Complaint, then there will not be additional opportunities for public comment on the proposed settlement.

If the Central Valley Water Board does not receive a signed waiver by 22 April 2009, then a hearing will be scheduled for the 11/12 June 2009 Central Valley Water Board meeting in Rancho Cordova. The Central Valley Water Board's Prosecution Team has proposed the enclosed draft Hearing Procedures to govern the conduct of such a hearing. Any objections to these draft Hearing Procedures must be received by Lori Okun, whose contact information is listed in the enclosed draft Hearing Procedures, by **5 p.m. on 7 April March 2009**.

Any comments or evidence concerning the enclosed Complaint must be submitted in accordance with the deadlines contained in the enclosed draft Hearing Procedures, unless these deadlines are changed by the Central Valley Water Board's Advisory Team, either on their own accord or upon request.

In order to conserve resources, this letter transmits paper copies of the documents to the Discharger only. Interested persons may download the documents from the Central Valley Water Board's Internet website at:

[http://www.waterboards.ca.gov/centralvalley/tentative\\_orders/](http://www.waterboards.ca.gov/centralvalley/tentative_orders/).

Copies of these documents can also be obtained by contacting or visiting the Central Valley Water Board's office weekdays between 8:00 a.m. and 5:00 p.m.

If you have any questions or comments regarding the Administrative Civil Liability Complaint, please contact Jeff Hannel at (559) 445-6193 or John Noonan at (559) 445-5550.

To claim an inability to pay this Administrative Civil Liability Complaint, the Eddie Duane Smith Trust must submit a statement of financial conditions by **22 April 2009** that substantiates this claim.

*Original signed by:*

LONNIE M. WASS  
Supervising Engineer

Enclosure: ACL Complaint R5-2009-0512 and draft Hearing Procedures

cc w/ encl: Pamela Creedon, Central Valley Water Board, Rancho Cordova  
Brian Newman, Central Valley Water Board, Rancho Cordova  
Kenneth Greenberg, USEPA, Region 9, San Francisco  
Reed Sato, Office of Enforcement, SWRCB, Sacramento  
Patrick Pulupa, Office of Chief Counsel, SWRCB, Sacramento  
Lori Okun, Office of Chief Counsel, SWRCB, Sacramento  
Emel Wadhwani, Office of Chief Counsel, SWRCB, Sacramento  
Ann Rolan, Madera County Department of Environmental Health, Madera  
Miguel Gonzalez, Gonzalez Farm Labor, Madera